IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.24798 of 2004

Between:

S. Krishna Reddy, s/o Mudda Reddy,
r/o Galibipalli Village, Lepakshi Mandal, Anantapur District.

..... PETITIONER

AND

1 State of Andhra Pradesh, rep., by Principal Secretary to Government,

Panchayat Raj & Rural Development
(RD.IV) Department (State Authority under A.P.Water, Land & Trees

Act) Secretariat Buildings, Hyderabad.
2 The District Collector, Anantapur District (District Authority under

A.P.Water, Land & Trees Act),
Anantapur.
3 The Mandal Revenue Officer, Lepakshi Mandal, Lepakshi, Anantapur

District.
4 The Assistant Engineer, APTRANSCO, Lepakshi, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to call for the records relating to the proceedings of the first respondent in G.O.Rt.No.1901 dated 7-12-2004 and quash the same by issuance of a Writ, Direction or order, particularly one in the nature of Certiorari and consequently set aside the orders of the third respondent ordering closure of the petitioner's bore well.

Counsel for the Petitioner: MR.R.V.SUBBA RAO

Counsel for the Respondents 1 to 3 : G.P. FOR PANCHAYAT RAJ

Counsel for Respondent No.4 : Smt.M.VINOBHA DEVI,

Standing Counsel

The Court, at the admission stage, made the following:

ORDER**:**

The case of the petitioner is that he was sanctioned a house plot by the third respondent-Mandal Revenue Officer in Galibipalli village, Lepakshi Mandal, Anantapur District under RCH 1995-96 Scheme and he constructed a house in the said plot and living therein. It is stated that the petitioner is having an agricultural land abutting his house in an extent of Ac.2.57 cents in Survey Nos.175-4 and 4A and for the purpose of agriculture, he dug bore wells in the said agricultural land. It is further stated that at the instigation of the Sarpanch, the third respondent, without considering the explanation submitted by the petitioner to the notice issued, ordered closure of the bore well. As against the said orders the petitioner preferred appeal before the 2nd respondent-District Collector, who confirmed the order passed by the third respondent and directed the petitioner to close the bore well dug by him in the land in question. Aggrieved by the same, the petitioner filed an appeal before the 1st respondent-Government and by order dated 27.10.2003, the order of the 2nd respondent was kept in abeyance. The grievance of the petitioner is that the 1st respondent without issuing any notice either to him or to his counsel and without hearing the matter, issued the impugned orders dated 07.12.2004 withholding the orders of the 2nd respondent-District Collector and vacated the orders issued by the Government on 27.10.2003 and also ordered to seize the bore well dug by him. Hence, he filed the present writ petition.

Heard the learned counsel for petitioner and learned Government Pleader for Panchayat Raj and Rural Development. Both counsel agreed to dispose of the writ petition at the admission stage itself with a direction to the 1st respondent-Appellate Authority to rehear the matter after issuing notice to the petitioner and to pass

appropriate orders.

A perusal of the impugned order dated 07.12.2004 passed by the 1st respondent-Appellate Authority does not indicate that the said order was passed after issuing notice and affording an opportunity of hearing to the petitioner. Under the circumstances, I deem it appropriate to dispose of the writ petition with the following directions.

The impugned order dated 07.12.2004 passed by the 1st respondent-Appellate Authority is hereby set aside and the 1st respondent-Appellate Authority is directed to re-hear the appeal after issuing notice to the petitioner by fixing a date of hearing and affording reasonable opportunity of hearing to the petitioner pass appropriate orders, in accordance with law. Till the disposal of the said appeal status quo obtaining as on today with regard to bore well shall be maintained.

With the above directions, the writ petition is disposed of at the admission stage. No costs.

(N.V. RAMANA, J)

Date: 30.12.2004

Nsr/Tvk

.... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Principal Secretary to Government,

Panchayat Raj & Rural Development
(RD.IV) Department (State Authority under A.P.Water, Land & Trees

Act) Secretariat Buildings, State of Andhra Pradesh, Hyderabad.
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District.
4 The Assistant Engineer, APTRANSCO, Lepakshi, Anantapur District.

5 Two CCS to GP for Panchayat Raj and Rural Development, High Court

of AP, Hyderabad (OUT)

6 Two CD copies.